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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,809	05/24/2001	Gerard Jay Bellasalma	60137-026	2588

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EXAMINER

SORKIN, DAVID L

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,809

Applicant(s)

BELLASALMA ET AL.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 16-22 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 16-22 and 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1-12, 14, 16, 26, 27 and 30 are objected to. Now that these claims require "a mix head", the preamble of claim 1, should not read "A valve assembly for a mix head assembly...", but should instead read, for example, - - A mix head assembly... - -, to comply with 37 CFR 1.75(d)(1).

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-12, 14, 16-22 and 26-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Independent claims 1 and 17 each recite "a mix head comprising an inlet to a mixer section and an outlet from said mixer section". While it is agreed that the original disclosure describes a "mixer head" per se, the phrase "comprising an inlet to a mixer section and an outlet from said mixer section", which was added in the amendment filed 07 January 2003, is considered to be "new matter". While it is understood from the drawings that the mix head of the invention is a pipe having an inlet and an outlet, as held in the BPAI decision at page 5, lines 18-19, a pipe having an inlet and outlet is not "a mix head of the sort recited". Therefor recitation of "a mix head comprising an inlet to a mixer section and an outlet from said mixer section" is considered new matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wagner (US 4,774,059). Wagner ('059) discloses a valve assembly (6, 15a) for a mixer head assembly of a molding system (see col. 2, lines 7-10 and col. 4 lines 37-45) comprising a mix head (5) comprising an inlet (from 10) to a mixer section and an outlet (14) from said mixer section; an input port (from supply vessel 1) to a passage (8,10); a plurality of sequentially activatable (see col. 4, lines 30-45) valves (6, 15a) communicating with said passage to selectively suppress a flow of fluid through said passage; and an output port from said passage to said mix head (see Fig. 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 4,774,059). The assembly of Wagner ('059) was discussed above with regard to claim 1. While the exact word "controller" is not used by the reference, it is stated that the valves are "controllable" (see col. 3, line 55). This statement that the valves are

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controllable together with the statements in col. 4, lines 30-45 concerning when the valves are opened and closed would have suggested a controller for the valves to one of ordinary skill in the art.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 4,774,059) in view of Kloker et al. (US 4,120,923). The assembly of Wagner ('059) was discussed above with regard to claim 1. Wagner ('059) does not state that the valves are pneumatically actuated. Kloker et al. (US 4,120,923) is relied upon as evidence that pneumatic actuation of valves is an art recognized alternative to other manners in which to actuate valves. See col. 14, lines 11-12.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 4,774,059). Regarding claim 8, Wagner ('059) discloses a valve assembly (15, 6, 15a) for a mixer head assembly of a molding system (see col. 2, lines 7-10 and col. 4 lines 37-45) comprising a mix head (5) comprising an inlet (from 10) to a mixer section and an outlet (14) from said mixer section; an input port (from supply vessel 1 or from 5) to a passage (12, 8,10); a plurality of sequentially activatable (see col. 4, lines 30-45) valves including first (15), second (6) and third (15a) communicating with said passage to selectively suppress a flow of fluid through said passage; and an output port from said passage to said mix head (see Fig. 1). While it is not expressly stated that "each" valve have a longitudinal axis substantially transverse to the passage, Fig. 2 depicts the structure of an exemplary valve (16) in accordance with the invention as having a longitudinal axis transverse to the passage, which would have suggest to one of ordinary skill in the art that the valves have longitudinal axes substantially transverse

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to the passage. Regarding claim 9, the first valve is adjacent said input port (see Fig. 1).

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (US 4,774,059). The assembly of Wagner ('059) was discussed above with regard to claim 1. Fig. 2 depicts details of the construction of one of the valves showing that it intersects said passage in a substantially perpendicular orientation. This would have suggested to one of ordinary skill in the art that said plurality of valves intersect said passage in a substantially perpendicular manner.

Conclusion


10. Previous indications of allowable subject matter are withdrawn. While many claims are not rejected under section 102 or 103, all pending claims are rejected under section 112, first paragraph as being directed to new matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

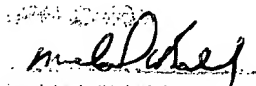
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS


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